CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	e ☑ Discourt. ☐ U.S.
Lily Kim		Squad #6	202102785	Abus	
Lify Killi		Squad #0	202102783	Abusi	e 📋 O.L. 📋 Injury
Incident Date(s)		Location of Incident:		Precinc	et: 18 Mo. SOL EO SOL
Thursday, 04/22/2021 1:55 AM		In front of Jamrock Bis Road)	stro (1009 Rutland	67	10/22/2022 10/22/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:	: Date/	Time Received at CCRB
Thu, 04/22/2021 1:59 AM		IAB	Phone	Thu, 0	05/06/2021 10:42 AM
Complainant/Victim	Type	Home Addre	ess	· · · · · · · · · · · · · · · · · · ·	
Subject Officer(s)	Shield	TaxID	Command		
1. LSA Timothy Brovakos	00000	943025	071 PCT		
2. LT Melissa Clark	00000	932472	071 PCT		
3. PO Christopher Rodriguez	04501	964733	071 PCT		
4. An officer					
Witness Officer(s)	Shield N	Tax No	Cmd Name		
1. POM Adrian Duran	19454	959612	071 PCT		
2. SGT Robert Cox	03721	948821	067 PCT		
3. LT Alan Myrthil	00000	932190	067 PCT		
4. PO Mubbashar Zahid	03267	965634	071 PCT		
5. PO Michelle George	07652	968438	078 PCT		
6. PO Aaqib Bhatti	14985	963873	071 PCT		
7. PO Omar Delarosa	06614	964474	071 PCT		
Officer(s)	Allegatio	on]	Investigator Recommendation
A.LSA Timothy Brovakos		ieutenant Timothy Brov	vakos stopped the ve	hicle in	
	which § 8 and § 87(2)		nts	•	
B.LSA Timothy Brovakos		ieutenant Timothy Brov		ehicle in	
B.EST Timoury Brovakos	which § 87(2)	7(2)(b)			
C.LSA Timothy Brovakos	Force: Lieutenant Timothy Brovakos used physical force against §87(2)(b)				
D.PO Christopher Rodriguez	Abuse: P	Police Officer Christophen which § 87(2)(b)	er Rodriguez searche was an occupant.		
E.PO Christopher Rodriguez	Force: Po	olice Officer Christopher hinst § 87(2)(b)	-		
F. An officer	_	An officer frisked § 87(2)(b)			
G. An officer		An officer frisked § 87(2)(b)			
H. An officer	Abuse: A	An officer frisked 87(2)(b)			

Officer(s)	Allegation	Investigator Recommendation
I.LT Melissa Clark	Discourtesy: Lieutenant Melissa Clark spoke discourteously to \$87(2)(b)	
J.LT Melissa Clark	Discourtesy: Lieutenant Melissa Clark spoke discourteously to \$87(2)(b)	
K.LSA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos seized § 87(2)(b) s property.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On April 22, 2021, § 87(2)(b) reported this incident to IAB over the phone. On May 6, 2021, IAB Log 21-9487 was received at the CCRB. On April 22, 2021, at approximately 1:55 a.m., § 87(2)(b) was in his friend, § 87(2)(b) vehicle with § 87(2)(b) and § 87(2)(b) The vehicle was parked with half the vehicle in an empty parking spot and half in an active lane of traffic, with the engine running, in front of a deli located at 1009 Rutland Road in Brooklyn. An unmarked vehicle pulled up in front of s vehicle. Lieutenant Timothy Brovakos and officers of the 71st Precinct exited their vehicle and approached § 87(2)(b) s vehicle (Allegation A: Abuse of Authority, § 87(2)(9) Lt. Brovakos asked § 87(2)(b) who sat in the driver's seat, for her driver's license and registration, and she responded that she did not have a driver's license and had not been driving. Additional officers responded to the incident, including Police Officer Christopher Rodriguez and Lieutenant Melissa Clark of the 71st Precinct. Lt. Brovakos reached in to unlock the driver's door and opened the door (Allegation B: Abuse of Authority, \$87(2)(9). the vehicle, and Lt. Brovakos pulled her out of the vehicle by pulling her arm (Allegation C: **.** The passengers were ordered to exit the vehicle, and they complied. PO Rodriguez entered the passenger's side of the vehicle and pushed (\$97(2)(5)) out of the vehicle from the inside of the vehicle (Allegations D and E: Abuse of Authority and Force, \$87(2)(9) and § 87(2)(b) were allegedly frisked by officers (Allegations F-H: Abuse of Authority, § 87(2)(9)). Lt. Clark stated to § 87(2)(b) "You're freezing your ass off" (Allegation I: Discourtesy, § 87(2)(g)). Lt. Clark stated to § 87(2)(b) "Because nobody needs a second arrest for bullshit. You hear me? That's what happens. There's one investigation and sixteen bullshit arrests because people can't calm down" (Allegation J: Discourtesy,). Lt. Brovakos ordered officers to transport § 87(2)(b) s vehicle to the stationhouse (Allegation K: Abuse of Authority, § 87(2)(9) § 87(4-b), § 87(2)(g) § 87(2)(b) was arrested for § 87(2)(b) Lt. Brovakos was captured on BWC remarking that \$87(2)(b) was a "nut job." § 87(2)(g) it was not pleaded, § 87(2) 23 BWC videos were obtained of this incident. **Findings and Recommendations** Allegation (A) Abuse of Authority: Lieutenant Timothy Broyakos stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. PO Mubbashar Zahid's BWC (1 of 3) (BR 01), begins with PO Zahid and Lt. Brovakos approaching the driver's side of the vehicle. Lt. Brovakos asks \$87(2)(6) for her license and registration multiple times, and \$87(2)(6) and the passengers all respond that she was not driving. At the 2:00 mark, Lt. Brovakos states that § 37(2)(b) is sitting in a vehicle with the engine running, and the vehicle is blocking a lane of traffic. Lt. Brovakos states that if \$87(2)(b) license is suspended, it's not "the end of the world," and he will probably "cut [her] a break anyway." but she does need to provide her identification. At the 3:50 mark, Lt. Brovakos tells them, "Do you see how you're parked?" At the 5:23 mark, Lt. Brovakos reaches into the vehicle to unlock the driver's door and opens it.

Lt. Clark's BWC (BR 02) opens with Lt. Clark walking toward the passenger side of [887(2)6) vehicle, when she responds as a backing unit after the vehicle stop was initiated. The front passenger side of the vehicle is lined up with the rear driver's side corner of the vehicle parked in a legal parking spot. \$87(2)(5) s vehicle is in an active lane of traffic along Rutland Avenue, which is primarily commercial and residential. Rutland Road is a two-lane street, one lane in each direction. testified (BR 03) that he had a couple drinks before he got in the vehicle. The vehicle was parked halfway in an empty parking spot and had the dashboard lights and hazard lights on. did not remember if the vehicle engine was on. Part of the vehicle was in the parking spot and part of the vehicle was in the active lane, but it did not block traffic. No one drank alcohol in the vehicle. There was no alcohol in the vehicle, but there were two empty bottles on the floor in the backseat area. § 87(2)(b) did not know what kind of bottles they were. §87(2)(b) § 87(2)(b) were going to drive away later. testified (**BR 04**) that the vehicle was parked at the corner of Rutland Avenue and 94th Street in Brooklyn, which juts out at the corner. There was not enough space between a parked vehicle and the part of the corner that juts out, so the front of the vehicle was parked directly behind that vehicle, but the rear of the vehicle was next to the part of the curb that stuck out. §87(2)(b) could not remember if the hazards were on, but the engine was running because they kept the heat on as it was cold. §87(2)(b) sat in the driver's seat because she was cold waiting outside the car s friend was going to drive her to work. §87(2)(b) had two shots of the Hennessy, \$87(2)(b) drank a lot, and he was drunk when the officers arrived later. \$87(2)(b) also drank some, but they were not intoxicated. § 87(2)(b) was not sure how long the vehicle had been parked there before she got in. After approximately an hour, an unmarked police vehicle double parked next to the vehicle that was parked in front of § 87(2)(b) was not sure where the bottle of Hennessy was inside the vehicle when the officers initially approached. Lt. Brovakos approached \$37(2)(b) s window and asked her what they were all doing there. testified (BR 05) that he was in the driver's side backseat of the \$87(2)(6) which was parked in a parking spot in front of the Jamrock Bistro at 1009 Rutland Road. Approximately 10 to 15 minutes after §87(2)(b) was in the vehicle, talking with the other individuals, officers pulled up. There was no alcohol or any other substance in the vehicle. A statement was not obtained from \$87(2)(b) because he was uncooperative with the investigation. A statement was not obtained from Lt. Brovakos § 87(2)(9) IAB Log #21-9487 (BR 06) noted that Lt. Brovakos contacted IAB and reported the following in a phone call (BR 07). He and his officers conducted a vehicle stop for a vehicle that was parked with the engine running, blocking a full lane of traffic. The female driver, \$87(2)(6) refused to open the door or provide her name or identification. The officers requested her ID 20 to 40 times. After 20 to 50 requests for her to step out the vehicle, officers arrested the female for driving while intoxicated. There were also three males in the vehicle who were not arrested but told the female

that she did not have to provide ID. The female was taken to the 78th Precinct for IDTU testing.

Arrest Report #\$\frac{8}{87(2)(0)}\$ (BR 08) was prepared for \$\frac{8}{87(2)(0)}\$ and listed the following charges:

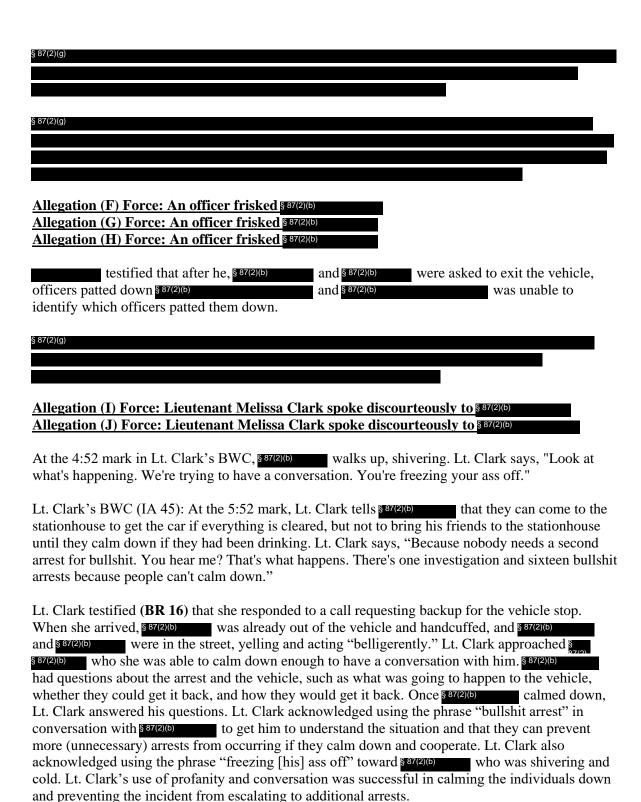
§ 87(2)(b)	
s breath alcohol concentration (BrAC) was 0.0. §87(2)(b)	. \$\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\
Upon any highway outside of a business or residence district no perstanding any vehicle, whether attended or unattended, upon the pave highway when it is practicable to stop, park, or so leave such vehicle	ed or main-traveled part of the

Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles, NY CLS Vehicle and Traffic Law 1201 (BR 09). A person "operates" motor vehicle when he begins to use mechanism of automobile for purpose of putting automobile in motion even though he does not move it, NY CLS Vehicle and Traffic Law 113 (BR 10). Members of service are to stop a vehicle when, upon observing the vehicle, reasonable suspicion exists that a violation of the traffic laws has been committed, Patrol Guide Procedure 202-25 (BR 11).

§ 87(2)(g)
§ 87(2)(g)
Allegation (B) Abuse of Authority: Lieutenant Timothy Brovakos searched the vehicle in
which § 87(2)(b) and § 87(2)(b) were occupants.
Allegation (C) Force: Lieutenant Timothy Brovakos used physical force against \$87(2)(6)
Allegation (D) Abuse of Authority: Police Officer Christopher Rodriguez searched the vehicle
in which §87(2)(b) was an occupant.
Allegation (E) Force: Police Officer Christopher Rodriguez used physical force against
§ 87(2)(b)

At the 0:02 mark in Lt. Brovakos' BWC (1 of 2) (BR 12), Lt. Brovakos opens the front driver door s vehicle. At the 1:55 mark, Lt. Brovakos states, "I don't want to arrest her. I don't want to arrest her, but I'm about to if she does not give me her name and date of birth." §87(2)(b) continues to talk to someone on the phone. At the 2:18 mark, Lt. Brovakos states that he is about to "take her out and lock her up." Lt. Brovakos states, "Please don't make me arrest you, I'm going to have to arrest you. Please don't make me." § 87(2)(b) responds that she does not have ID, and that she is not driving. Lt. Brovakos asks for \$87(2)(b) s name and date of birth again. At the 2:39 mark, \$87(2)(b) responds, stating her first name \$87(2)(b) and "August 4th" as her date of birth. At the 3:12 mark, Lt. Brovakos tells \$87(2)(b) that she is under arrest and to step out of the vehicle. Lt. Brovakos repeats this order at least five times in quick succession, but 887(2)(b) continues to yell and refuses to exit. At the 3:30 mark, Lt. Brovakos reaches in the open door and grabs \$87(2)(b) s wrist by his left hand. Lt. Brovakos repeats his order to step out of the vehicle over twenty times, \$87(2)(b) pulls herself further into the vehicle out of Lt. Brovakos' reach. At the 3:45 mark, Lt. Brovakos leans into the vehicle and grabs §87(2)(b) by her wrist and pulls. Lt.

Brovakos continues to try to pull her out, but she does not move. At the 4:24 mark, Lt. Brovakos tells \$37(2)6 to "please come out of the car." At the 5:05 mark, Lt. Brovakos tells the other officers to "get them out of the car," referring to the passengers. They exit the vehicle. At the 5:30 mark, PO Rodriguez ducks into the passenger side of the vehicle. At the 5:37 mark, Lt. Brovakos tells another officer to "be gentle" many times. At the 5:51 mark, two officers take § 37(2)(b) her arms and lift her up and out of the driver's seat. §87(2)(6) is promptly handcuffed. At the 2:50 mark in PO Rodriguez's BWC (BR 13), PO Rodriguez enters the vehicle through the passenger side to push \$87(2)(6) out of the vehicle from inside. PO Rodriguez kneels on the passenger seat bent toward § 87(2)(b) repeats that she is going to exit the vehicle, but she does not. As soon as \$87(2)(b) exits the vehicle, PO Rodriguez exits the vehicle. He does not touch any items or open any compartments in the vehicle. testified that Lt. Brovakos stated that §87(2)(b) was going to be arrested. Lt. Brovakos did not answer and told \$87(2)(b) to exit the vehicle approximately three times, but she did not. Lt. Brovakos opened the vehicle door and grabbed \$87(2)(b) s arm to pull her out of the car, stating that she was under arrest. § 87(2)(b) yelled that she gave him her name, and this was when PO Rodriguez got into the front passenger seat and pushed \$37(2)(5) arm to push her out from inside the car. § 37(2)(5) resisted as Lt. Brovakos and PO Rodriguez pushed and pulled her. and § 87(2)(b) s statements were consistent with § 87(2)(b) s statement. A valid investigatory stop of a car may be accompanied, as a protective measure, by the opening of any doors and a directive from the police to the occupants to exit the car. Where the police had lawfully stopped a car, they were entitled to open any door, order the driver out, and seize anything in plain view, People v. Rosario, 94 A.D.2d 329 (1983) (BR 14). Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody, Patrol Guide Procedure 221-01 (BR 15). People v. Rosario established that during a lawful vehicle stop, police are entitled to open any door and order the driver out of the vehicle. BWC further corroborates that after \$87(2)(b) refused to comply with Lt. Brovakos' lawful orders to exit the vehicle for approximately 15 seconds, Lt. Brovakos broke the plane of the vehicle to grab \$87(2)(b) by one arm to physically remove her from the vehicle. Lt. Brovakos then ordered the officers to have the passengers exit the vehicle, and two additional officers attempted to pull \$37(2)(b) out of the vehicle from the driver's side but were unsuccessful. Approximately two minutes after Lt. Brovakos initially made physical contact with \$87(2)(b) Rodriguez entered the passenger seat of the vehicle to push her out. BWC shows that PO Rodriguez only entered the vehicle to push \$87(2)(6) out as the officers were unable to pull her out of the vehicle from the driver's side for approximately two minutes. PO Rodriguez did not touch anything in the vehicle and exited the vehicle immediately after \$87(2)(b) exited the driver's seat. acknowledged in her CCRB interview that she resisted as Lt. Brovakos and PO Rodriguez attempted to physically remove her from the vehicle. BWC also shows that Lt. Brovakos gave at least five verbal commands and stated that § 87(2)(b) was under arrest prior to making physical contact and that throughout [897(2)] refused to exit the vehicle for over three minutes while officers issued verbal commands and used physical force to pull her out of the vehicle.



The Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect, while efficiently rendering police services and enforcing the laws impartially. Members of service are to value human life, respect the dignity of each individual and render our services with courtesy and civility, <u>Patrol Guide Procedure 200-02</u> (**BR 17**).

§ 87(2)(g)
§ 87(2)(g)
Allegation (K) Force: Lieutenant Timothy Brovakos seized §87(2)(5)
At the 6:05 mark in Lt. Clark's BWC, \$87(2)(b) tells Lt. Clark that the vehicle belongs to him, and they can search it if they want to. At the 7:15 mark, \$87(2)(b) asks why he cannot get his car back. There is no response from officers.
At the 6:53 mark in Police Officer Omar Delarosa's BWC (BR 18), Lt. Brovakos tells officers to take the car back.
testified that unidentified officers transported \$87(2)(b) s vehicle to the stationhouse. \$87(2)(b) additionally testified that \$87(2)(b) was drunk during the incident, and that he picked up his vehicle from the stationhouse when \$87(2)(b) was released with a DAT.
Whenever any police officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this article such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of such highway, NY CLS Vehicle and Traffic Law 1204 (BR 19).
As confirmed by BWC, \$87(2)(b) told officers repeatedly that she did not have a license and had not been operating the vehicle. BWC also captures \$87(2)(b) stating repeatedly that the vehicle belongs to him. Although \$87(2)(b) stated that there was no alcohol in the vehicle, he stated that there were empty bottles in the vehicle. \$87(2)(g)
According to <u>NY CLS VTL</u> 1204, officers are authorized
move the vehicle or require the driver or owner of the vehicle to move an illegally parked vehicle. § 87(2)(9)
§ 87(2)(g)
§ 87(4-b), § 87(2)(9)

This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 24). 37(2)(b) At. Brovakos has been a member of service for 15 years and has been a subject in omplaints and 138 allegations, of which 14 were substantiated.: Case #201500206 involved a substantiated allegation of vehicle search as Brovakos. The Board recommended Command Discipline B, and the NY imposed formalized training.		
This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 22). This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$887(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$887(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$887(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$887(2)(b) has been a party (BR 24). This is the first CCRB complaint to which \$887(2)(b) has been a party (BR 24).		
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imposed formalized training.		Case #201500206 involved a substantiated allegation of vehicle search again
Case #201703132 involved a substantiated anegation of discoultedus fair		Case #201905132 involved a substantiated allegation of discourteous langu

- against Lt. Brovakos. The Board recommended instructions, and the NYPD imposed no disciplinary action.
- Case #201910398 involved a substantiated allegation of discourteous language and a substantiated allegation of vehicle stop against Lt. Brovakos. The Board recommended Command Discipline A, and the NYPD imposed no disciplinary action.

- Case #202003306 involved a substantiated allegation of seizure of property against Lt. Brovakos. The Board recommended Command Discipline A, and the NYPD has not yet imposed disciplinary action.
- Case #202007423 involved two substantiated allegations of failure to provide RTKA against Lt. Brovakos. The Board recommended Command Discipline B, and the NYPD has not yet imposed disciplinary action.
- Case #202007569 involved two substantiated allegations of failure to provide RTKA against Lt. Brovakos. The Board recommended Command Discipline B, and the NYPD has not yet imposed disciplinary action.
- Case #202100053 involved substantiated allegations of failure to provide RTKA, frisk, stop, and threat of arrest against Lt. Brovakos. The Board recommended Charges, and the NYPD has not yet imposed disciplinary action.
- Case #202100965, #\$87(2)(b) #202102023, #202103249, #202103249, #202103599, #202103919, #202104054, #\$87(2)(g) #202104788, \$87(2)(g)
- PO Rodriguez has been a member of service for four years and has been a subject in nine cases and 20 allegations, none of which have been substantiated. CCRB Case #202101686, #202103919, #202104135, #202104686, \$87(2)(9) are pending investigation. \$87(2)(9)
- Lt. Clark has been a member of service for 18 years and has been a subject in six CCRB complaints and 12 allegations, of which two were substantiated.:
 - Case #200515516 involved substantiated allegations of frisk and question/stop against Lt. Clark. The Board recommended Charges and the NYPD did not impose any disciplinary action.
 - O Case #202104135 and #202104195 are pending investigation. §87(2)(9)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 24, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (BR 26).

•	§ 87(2)(b)
•	§ 87(2)(b)
•	§ 87(2)(b)

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CCRB CTS – Confidential

§ 87(2)(b)			
● § 87(2)(b)			
Squad:6			
Investigator:			
	Signature	Print Title & Name	Date
Squad Leader:		IM Jessica Peña	6/10/2022
	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date